Reg. No. KL/TV(N)/

KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXV] Trivandrum, Thursday, 11th December 1980 / 20th Agrahayana 1902 [No. 1052

SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 10468/LA4/80. *Dated, Trivandrum, 11th December,* 1980

The Kerala Forest (Amendment) Bill, 1980 together with the Statement of Objects and Reasons, the Financial Memorandum and the Memorandum regarding Delegated Legislation is published, under Rule, 69 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

Dr. R. Prasannan,
Secretary,
Legislative Assembly.

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS,
TRIVANDRUM, 1980.

33/4831/MC.

Sixth Kerala Legislative Assembly

Bill No. 56

THE KERALA FOREST (AMENDMENT) BILL, 1980

A

BILL

further to amend the Kerala Forest Act, 1961.

Preamble.—WHEREAS it is expedient further to amend the Kerala Forest Act, 1961, for the purposes hereinafter appearing;

BE it enacted in the Thirty-first Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Kerala Forest (Amendment) Act, 1980.

(2) Sections 2 and 3 shall be deemed to have come into force on the 1st day of June, 1980 and the remaining provisions of this Act shall come into force at once.

2. *Insertion of new section 12A.*—After section 12 of the Kerala Forest Act, 1961 (4 of 1962) (hereinafter referred to as the principal Act), the following section shall be inserted, namely:—

"12A. *Appeal to the High Court.*—(1) The Government or any person objecting to any order of the District Court in an appeal under section 11 may, within a period of ninety days from the date of that order, appeal against such order to the High Court:

Provided that the High Court may admit an appeal preferred after the expiration of the period of ninety days aforesaid, if it is satisfied that the appellant had sufficient cause for not preferring the appeal within the said period.

(2) An appeal under sub-section (1) shall be in the prescribed form and shall be verified in the prescribed manner and shall be accompanied by a fee of one hundred rupees.

(3) On receipt of an appeal under sub-section (1) the High Court may, after giving the parties a reasonable opportunity of being heared, either in person or by a representative,—

(a) confirm or cancell the order of the District Court appealed against; or

(b) set aside such order and remand the case to the District Court for decision after such further enquiry as may be directed; or

(c) pass such other orders as it may think fit.

(4) Every order passed in appeal under this section shall be final.

(5) Any order passed by the High Court under this section shall be enforceable by the District Court within whose jurisdiction the land is situated, as if it were a decree passed by such District Court under the Code of Civil Procedure, 1908.".

3. *Amendment of section* 14.—In section 14 of the principal Act, for clause (d), the following clause shall be substituted, namely:—

"(d) an appeal, if any, presented under section 11 has been disposed of by the District Court, and—

(i) the period fixed for an appeal to the High Court against the order of the District Court in such appeal has elapsed; or

(ii) an appeal to the High Court against the order of the District Court in such appeal has been disposed of by the High Court,".

4. *Transitory provision.*—Notwithstanding anything contained in any law, or in any judgment, decree or order of any court, the Government or any person objecting to any order of the District Court in an appeal under section 11, made after the 1st day of June, 1980 and before the date of Publication of the Kerala Forest (Amendment) Ordinance, 1980 (8 of 1980) may, within a period of ninety days from the date of such publication appeal to the High Court against such order, and the provisions of sub sections (2) to (5) (both inclusive) of section 12 A of the principal Act as amended by this Act shall apply in respect of such appeal.

5. *Repeal and saving.*—(1) The Kerala Forest (Amendment) Ordinance 1980 (8 of 1980), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the said Ordinance or under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under this Act or under the principal Act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

Sections 3 to 19 of the Kerala Forest Act, 1961, lay down the procedure to be followed for constituting any land at the disposal of the Government as a Reserved Forest. Section 10 of the Act provides that the Forest Settlement Officer shall, after completing the inquiry, pass an Order specifying the particulars of any claim made under section 6 and admitting or rejecting it wholly or in part. According to sub-section (1) of section 11 of the Act, when a claim is rejected wholly or in part the claimant may, within ninety days from

the date of the order under section 10, prefer an appeal to the District Court in respect of such rejection only. Sub-section (2) of section 11 provides that whenever a claim is admitted in the first instance, a like appeal may be preferred on behalf of Government by the Forest Officer appointed under section 4, or other person generally or specially empowered by the Government in this behalf. There is, however, no provision in the Act for a second appeal against any order passed by the District Court in an appeal under section 11.

2. Recently, the Additional District Court, Ernakulam, allowed certain appeals under section 11 of the Act against the orders of the Forest Settlement Officers of Kottayam and Quilon. Large extent of lands sought to be notified as reserve forests are involved in these appeals. The notifications issued by the Government in respect of the proposed reserves were held to be without jurisdiction, *ultra vires* and void. Since there was no provision for appeal against the orders of the Additional District Court, Ernakulam, Government had no remedy in the matter except challenging the decision in a writ petition. It was, therefore, felt necessary to amend the Kerala Forest Act, 1961, to provide for a second appeal to the High Court against any order of the District Court in an appeal under section 11 of the Act.

3. Since the Legislative Assembly was not in session and the matter was very urgent, the Kerala Forest (Amendment) Ordinance, 1980 (8 of 1980), was promulgated by the Governor to achieve the above object. The Bill seeks to replace the Ordinance by an Act of the State Legislature.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any expenditure from the Consolidated Fund of the State.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-section (2) of section 12A proposed to be inserted by clause 2 of the bill seeks to empower the Government to prescribe the form of appeal and the manner in which the appeal shall be verified. These are matters of administrative and procedural nature. The delegation of legislative power is, therefore, of a normal character.

ARYADAN MUHAMED

Government of Kerala
1980

Reg. No. KL/TV(N)/12

KERALA GAZETTE

EXTRAORDINARY

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SECRETARIAT OF THE KERALA LEGISLATURE

NOTIFICATION

No. 10469/LA4A/80. *Dated, Trivandrum, 11th December,* 1980.

The Kerala Public Service Commission (Obligation to Furnish Returns, Records and Information) Bill, 1980 together with the Statement of Objects and Reasons, the Financial Memorandum and the Memorandum regarding Delegated Legislation is published, under Rule 69 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

DR. R. PRASANNAN,
Secretary,
Legislative Assembly.

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33/4833/MC.

Sixth Kerala Legislative Assembly

Bill No. 57

THE KERALA PUBLIC SERVICE COMMISSION (OBLIGATION TO FURNISH RETURNS, RECORDS AND INFORMATION) BILL, 1980

A

BILL

to cast an obligation on the Kerala Public Service Commission to furnish returns, records and information required by the Government.

Preamble.—WHEREAS it is expedient to cast an obligation on the Kerala Public Service Commission to furnish returns, records and information required by the Government;

BE it enacted in the Thirty-first Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Kerala Public Service Commission (Obligation to Furnish Returns, Records and Information) Act, 1980.

2. *Public Service Commission to furnish returns, etc., to Government.*—The Kerala Public Service Commission shall furnish such returns, records and information as may be required by the Government.

3. *Power to make rules.*—(1) The Government may, in consultation with the Kerala Public Service Commission, make rules for carrying out the purposes of this Act.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

2/4832/MC.

Sixth Kerala Legislative Assembly

Bill No. 57

THE KERALA PUBLIC SERVICE COMMISSION (OBLIGATION TO FURNISH RETURNS, RECORDS AND INFORMATION) BILL, 1980

A

BILL

to cast an obligation on the Kerala Public Service Commission to furnish returns, records and information required by the Government.

Preamble.—WHEREAS it is expedient to cast an obligation on the Kerala Public Service Commission to furnish returns, records and information required by the Government;

BE it enacted in the Thirty-first Year of the Republic of India as follows:—

1. *Short title.*—This Act may be called the Kerala Public Service Commission (Obligation to Furnish Returns, Records and Information) Act, 1980.

2. *Public Service Commission to furnish returns, etc., to Government.*—The Kerala Public Service Commission shall furnish such returns, records and information as may be required by the Government.

3. *Power to make rules.*—(1) The Government may, in consultation with the Kerala Public Service Commission, make rules for carrying out the purposes of this Act.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

At present, there is no provision under which the Kerala Public Service Commission is bound to furnish any return, record or information which may be required by the Government. It is considered necessary to impose on the Commission a duty to furnish such returns, records and information, as may be required by the Government.

2. The Bill is intended to achieve the above object.

FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any expenditure from the Consolidated Fund of the State.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill seeks to empower the Government to make rules for carrying out the purposes of the Act. The matters in respect of which rules may be made will be of an administrative nature. Further, the rules after they are made will be subject to scrutiny of the Legislative Assembly. The proposed delegation of legislative power is, thus, of a normal character.

E. K. NAYANAR